

To: Lorang, Phil[Lorang.Phil@epa.gov]; Keas, Ashley[keas.ashley@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]
From: Beaver, Melinda
Sent: Wed 3/1/2017 2:28:05 PM
Subject: RE: litigation bullet on the informational briefing document
[13-70366 Opinion.pdf](#)

Thanks.

Before I ask OGC about Arizona, the attached Feb 2016 decision on Arizona's haze plan sounds like you're right:

Summary:

The panel denied consolidated petitions for review of a Final Rule, promulgated by the Environmental Protection Agency under the Clean Air Act, that partially disapproved Arizona's regional haze State Implementation Plan ("SIP") – setting forth emission limits and other measures – and issued a Federal Implementation Plan ("FIP") in place of the disapproved SIP elements.

The panel held that the EPA did not act arbitrarily and capriciously when it disapproved in part the SIP's "best available retrofit technology" for the Coronado Generating Station, a coal-fueled power plant located in Eastern Arizona, and when it issued a replacement FIP as to the disapproved portions. The panel also held that the EPA did not err procedurally in promulgating the FIP in the same rule as its partial disapproval of the SIP.

The panel held that its ultimate review of the EPA's FIP must await the EPA's final action on its proposal to revise the FIP in specific respects. Accordingly, the panel stayed the proceedings as to evaluation of the FIP's technical feasibility until the administrative process was complete.

Think I should still check with OGC?

Melinda

From: Lorang, Phil
Sent: Wednesday, March 01, 2017 9:12 AM
To: Beaver, Melinda <Beaver.Melinda@epa.gov>; Keas, Ashley <keas.ashley@epa.gov>; Werner, Christopher <Werner.Christopher@epa.gov>
Subject: RE: litigation bullet on the informational briefing document

Melinda,

I looked back at the recent US Steel petition denial's history section, and it clear that litigation has not concluded on MN and MI.

I think there may still be litigation on some aspects of Arizona. The recent SIP and FIP revisions resolved some contention, but not all. This should be checked before the presentation leaves AQPD.

Phil

From: Beaver, Melinda
Sent: Wednesday, March 1, 2017 5:33 AM
To: Lorang, Phil <Lorang.Phil@epa.gov>; Keas, Ashley <keas.ashley@epa.gov>; Werner, Christopher <Werner.Christopher@epa.gov>
Subject: litigation bullet on the informational briefing document

I'm working on Anna's suggestions on the informational briefing document. One of her suggestions is to list the states where we have ongoing litigation. Could you double-check this for me:

Actions on approximately ~~810 state or~~ federal plans are currently in various stages of litigation.[1]

[1] Texas, Wyoming, New York, Utah, Arkansas, Michigan, Minnesota, Navajo Generating Station

I'm not sure I have enough info to know if the active litigation on the Taconite FIP still involves facilities in both states, but I'm assuming it does.

[1] Texas, Wyoming, New York, Utah, Arkansas, Michigan, Minnesota, Navajo Generating Station